

## **MEETING RECORD**

**NAME OF GROUP:**

City Board of Zoning Appeals

**DATE, TIME AND**

**PLACE OF MEETING:**

Friday, March 31, 2006, 1:30 p.m., Hearing Chambers, County-City Building, 555 South 10<sup>th</sup> Street, Lincoln, Nebraska

**MEMBERS AND OTHERS**

**IN ATTENDANCE:**

**Members:** Gene Carroll, George Hancock, Gerry Krieser and Bob Kuzelka. Tim Francis absent.  
**Others:** Terry Kathe (Building & Safety); Brian Will and Michele Abendroth (Planning Dept.); Tonya Skinner (Law Department); applicants and other interested parties.

**STATED PURPOSE**

**OF THE MEETING:**

Regular Meeting of the City Board of Zoning Appeals

Chair Gene Carroll called the meeting to order at 1:33 p.m.

**Approval of the minutes of the February 24, 2006 meeting**

Krieser moved approval of the February 24, 2006 meeting minutes, seconded by Kuzelka. Motion carried 4-0. Carroll, Hancock, Krieser and Kuzelka voting 'yes'. Francis absent.

**Appeal No. 06003 by Don Wesely for a variance of the size of an electronic changeable copy sign on property generally located at 2500 Wildcat Drive.**

**HEARING**

**March 31, 2006**

Don Wesely, appearing on behalf of Anderson Ford, stated that the site of the sign is to the south of I-80 and N. 27<sup>th</sup> Street. In 2000, Anderson Ford built a sign at their new business location, and 1 ½ years later Building and Safety stated that there was an error in issuing the permit for the sign as the electronic changeable copy part of the sign exceeded the sign code limitation. They are asking for a variance to allow their sign to remain in place. He believes this is an unusual circumstance. The sign is on a pole 80' high and is a significant distance from I-80 and N. 27<sup>th</sup> Street. They do not find a sign as high or far away from any street as this sign is. He believes this Board has the right to grant this variance. These circumstances were not created by the applicant. He noted that Anderson Ford and the City have both acted in good faith to resolve this issue. Granting a variance will not have a negative effect on the health, safety, or economic value of the adjacent properties or on the community. He understands that the complaints have come from sign companies and other properties who want to construct larger signs. To grant a variance for this sign is following a very narrow precedence and it is unlikely to happen again. He strongly believes the decision that should be made is that an error was made and a variance granted.

Carroll disclosed that Wesely contacted each of the Board members prior to the meeting regarding the facts of the case.

Kuzelka asked for clarification on whether the size of the sign is in question. Kathe stated that the size of the sign is not in question, just the electronic changeable copy part of the sign.

Carroll asked if the hearing would have to be continued to consider the error as the application did not

request consideration on the error. Skinner stated that the application would need to be re-advertised for a hearing to consider the error.

Krieser asked if there would be legal problems in granting the variance. Skinner stated that there could be liability for granting a variance if there is not legal cause to grant the variance. Usually an error by a building official is not a hardship.

Kuzelka asked if this type of sign would be allowed anywhere in the City. Kathe stated that he believes the only place it would be allowed would be in the Downtown Entertainment District.

Carroll asked the applicant if they would like to amend the application in order to consider the error. Wesely replied that they would like to do that.

Carroll asked if there was further testimony in favor of or against this application. With no one appearing, Carroll closed the public hearing and proceeded with the Executive Session.

## **ACTION**

**March 31, 2006**

Krieser moved to postpone this appeal in order to allow the applicant time to amend the application, seconded by Hancock. Motion carried 4-0. Carroll, Hancock, Krieser and Kuzelka voting 'yes'. Francis absent.

The meeting was adjourned at 1:55 p.m.

*Q:\BZA\MINUTES\2006\03 31 06.wpd*